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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 STEVEN M. REMERY,
12 Inmate No. 0610340979,

13 Plaintiff,

14 vs.

15 DEPARTMENT OF CORRECTIONS AND
16 REHABILITATION, et al.,

17 Defendants.
18

Civil No. 06-2738 BEN (JMA)

**ORDER TRANSFERRING CIVIL
ACTION FOR LACK OF PROPER
VENUE TO THE CENTRAL
DISTRICT OF CALIFORNIA,
EASTERN DIVISION,
PURSUANT TO 28 U.S.C. § 84(c)(1),
28 U.S.C. § 1391(b)
AND 28 U.S.C. § 1406(a)**

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20 Plaintiff, an inmate currently incarcerated at the West Valley Detention Center in Rancho
21 Cucamongo, has filed a civil rights Complaint pursuant to 42 U.S.C. § 1983. Plaintiff claims
22 that his constitutional rights were violated when he was incarcerated at the California Youth
23 Authority in Chino, California. Plaintiff seeks declaratory and injunctive relief as well as
24 compensatory and punitive damages.

25 Plaintiff has not prepaid the \$350 civil filing fee mandated by 28 U.S.C. § 1914(a); nor
26 has he filed a Motion to Proceed *In Forma Pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915(a).

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1 **I. Lack of Proper Venue**

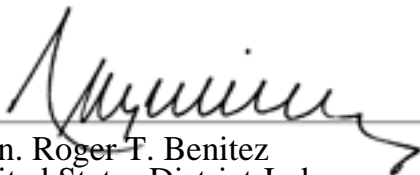
2 Upon initial review of the Complaint, the Court finds that Plaintiff's case lacks proper
 3 venue. Venue may be raised by a court sua sponte where the defendant has not yet filed a
 4 responsive pleading and the time for doing so has not run. *Costlow v. Weeks*, 790 F.2d 1486,
 5 1488 (9th Cir. 1986). "A civil action wherein jurisdiction is not founded solely on diversity of
 6 citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district
 7 where any defendant resides, if all defendants reside in the same State, (2) a judicial district in
 8 which a substantial part of the events or omissions giving rise to the claim occurred, or a
 9 substantial part of property that is the subject of the action is situated, or (3) a judicial district
 10 in which any defendant may be found, if there is no district in which the action may otherwise
 11 be brought." 28 U.S.C. § 1391(b); *Costlow*, 790 F.2d at 1488; *Decker Coal Co. v.*
 12 *Commonwealth Edison Co.*, 805 F.2d 834, 842 (9th Cir. 1986). "The district court of a district
 13 in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in
 14 the interests of justice, transfer such case to any district in or division in which it could have
 15 been brought." 28 U.S.C. § 1406(a).

16 Here, Plaintiff claims constitutional violations originally arising out of events which
 17 occurred in San Bernardino County, not San Diego or Imperial Counties. Moreover, none of the
 18 named Defendants are alleged to reside in San Diego or Imperial Counties. Therefore, venue
 19 is proper in the Central District of California, Eastern Division, pursuant to 28 U.S.C. § 84(c)(1),
 20 not in the Southern District of California. *See* 28 U.S.C. § 1391(b); *Costlow*, 790 F.2d at 1488.

21 **II. Conclusion and Order**

22 Accordingly, **IT IS HEREBY ORDERED** that the Clerk of the Court shall transfer this
 23 case for lack of proper venue, in the interests of justice and for the convenience of all parties,
 24 to the docket of the United States District Court for the Central District of California, Eastern
 25 Division, pursuant to 28 U.S.C. § 84(c)(1), 28 U.S.C. § 1391(b) and 28 U.S.C. § 1406(a).

26 DATED: January 22, 2007

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 28 Hon. Roger T. Benitez
 United States District Judge